

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NURSAN METALURJI ENDUSTRISI, A.S.,

Plaintiff,

Case No.: 07 CIV 7687 (GBD)

-against-

M/V "TORM GERTRUD" her engines, tackle,
boilers, etc. *in rem*, M/V "NEW FLAME" her engines,
tackle, boilers, etc. *in rem*,
A/S DAMPSKIBSSELSKABET TORM, TRANSMAR
SHIPPING CO. S.A., GLADIATOR NAVIGATION S.A.,
in personam,

**DECLARATION OF
TERRY L. STOLTZ**

Defendants.
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TERRY L. STOLTZ declares as follows:

1. I am an attorney at law, duly admitted to practice in this Honorable Court and am a member of the firm of NICOLETTI HORNIG & SWEENEY, attorneys for defendants A/S DAMPSKIBSSELSKABET TORM and the M.T. TORM GERTRUD *in rem* (collectively "Torm").

2. I make this Declaration in support of Torm's motion to dismiss for lack of *in personam* jurisdiction and/or for *forum non conveniens*.

3. Attached as Exh. 6 to the affidavit of Patrick F. Lennon submitted in opposition to Torm's motion to dismiss were the results of two inquiries made on the Court's electronic Pacer docket system relating to cases involving Torm. The first lists 15 cases in this Court where the search was for a party named "Torm." The second lists 27 cases nationwide where the search was for a party named "A/S Dampskibsselskabet Torm." On this latter list, there were ten cases in this Court, five of which were not on the original list. Of the 20 cases on the two lists, only one involved Torm as a plaintiff. The 20 cases cover filings from 1990 to date.

4. In order to obtain a complete list of the cases involving Torm in the Southern District of New York, we ran two searches on open and closed files. One was for a party named “Torm” and the second was for a party named “A/S Damp.” We then culled from those results all of the cases filed after January 1, 2000 in which Torm was a party. Including this case, there were ten cases. A list of the cases is attached as Exhibit 1. In one case, filed on October 19, 2001, Torm was the plaintiff.

5. As explained in the reply declaration of Anne M. Hansen of Torm, filed herewith, Torm sold its liner service, which entailed regular calls in the Port of New York and New Jersey, in 2002. The only action brought by Torm as the plaintiff after January 1, 2000 was started before Torm sold its liner service and the action related to the liner service. Torm has not appeared as a plaintiff since the liner service was sold.

6. Attached as Exhibit 2 is an answer filed on October 5, 2001 on Torm’s behalf by Patrick F. Lennon, then a partner of Tisdale & Lennon, LLC, in a case entitled *International Marine Underwriters v. M/V TORM FREYA*, S.D.N.Y Docket No. 01 Civ. 6098 (WHP) (S.D.N.Y. Oct. 5, 2001). The answer asserted lack of personal jurisdiction as the Tenth Affirmative Defense.

7. Attached as Exhibit 3 is a Consolidated Motion to Dismiss the Amended Complaint filed on December 21, 2007 on behalf of, *inter alia*, Torm in a case entitled *W.O. Shipping Group B.V., N.L. v. OMI Corporation*, D.Conn. Docket No. 07-CV-01381 (MRK). The motion raises, *inter alia*, the defense of *forum non conveniens*.

8. Attached as Exhibit 4 is the Collision Law and Jurisdiction Agreement between Torm and Gladiator Navigation SA.

9. Attached as Exhibit 5 is the Witness Statement of Jai Kumar Sharma submitted on behalf of Nursan to the Court in Gibraltar.

10. Attached as Exhibit 6 is the Affidavit of Patrick F. Lennon submitted on behalf of Nursan to the Court in Gibraltar.

Pursuant to 28 U.S.C § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 19, 2008
New York, New York

s/ Terry L. Stoltz
TERRY L. STOLTZ